

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

BETTYE BARNES	§	PLAINTIFF
	§	
v.	§	Civil No. 1:12cv34HSO-RHW
	§	
BTN, INC. d/b/a BOOMTOWN CASINO,	§	DEFENDANTS
PENN NATIONAL GAMING, INC.	§	
d/b/a BOOMTOWN CASINO	§	

**ORDER GRANTING PENN NATIONAL GAMING INC.'S MOTION TO
DISMISS AND DISMISSING PENN NATIONAL GAMING AS A DEFENDANT**

BEFORE THE COURT is a Motion to Dismiss [10] filed March 13, 2012, by Penn National Gaming, Inc. ["Penn"], wherein they represent that they are entitled to dismissal because BTN, Inc., d/b/a/ Boomtown Casino, has filed its Answer [4] denying that Penn owns, operates or does business as Boomtown Casino. Ans. [4], ¶ 3 at pp. 3-4. Penn further represents that the Answer filed by BTN, Inc., admits that it is a duly licensed gaming facility in Biloxi. Ans. [4], ¶ 2 at p. 3. In support of dismissal, Penn argues that Plaintiff's Complaint:

does not provide any "grounds" to show that Penn National Gaming, Inc. owns, maintains, possesses or controls the premises in and around Boomtown Casino in Biloxi, Mississippi. To the extent that any "grounds" are alleged, they are nothing more than labels and conclusions.

Mem. in Support of Mot. to Dismiss [11], at p. 4.

To date, Plaintiff has not filed a Response.¹ The Court, having considered the instant Motion, concludes that Penn's Motion should be granted.

IT IS, THEREFORE, ORDERED AND ADJUDGED that, the Motion to

¹ A Text Only Order was entered on April 3, 2012, which directed Plaintiff to file a Response, if any, on or before April 13, 2012.

Dismiss [10] filed March 13, 2012, by Penn National Gaming, Inc., is **GRANTED**,
and Defendant Penn National Gaming is **DISMISSED AS A DEFENDANT**.

SO ORDERED AND ADJUDGED, this the 7th day of May, 2012.

s/ Halil Suleyman Ozerden

HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE